

PROPOSED RULES

(e) In case of an emergency, notification may be by telephone. A service planning meeting as set forth in Paragraph (c) of this Rule shall be held within five business days of an emergency transfer or discharge.

- ☒ State
☒ Local
☐ Substantive (≥\$3,000,000)
☐ None

Authority G.S. 122C-26; 143B-147.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Commission for DMH/DD/SAS intends to adopt the rules cited as 10A NCAC 27G .1801-.1806.

Proposed Effective Date: April 1, 2006

Instructions on How to Demand a Public Hearing: (must be requested in writing within 15 days of notice): A person may demand a public hearing on the proposed rules by submitting a request in writing to Cindy Kornegay, 3018 Mail Service Center, Raleigh, NC 27699-3018, by November 16, 2005.

Reason for Proposed Action: The proposed adoption is necessary to establish a new licensure category for Intensive Residential Treatment for Children or Adolescents. The proposed rule changes represent a part of a comprehensive plan to revamp the child residential treatment service continuum. The proposed rules establish additional safeguards for children and adolescents and establish higher standards for providers of intensive residential treatment services.

Procedure by which a person can object to the agency on a proposed rule: The objection, reasons for the objection and the clearly identified portion of the rule to which the objection pertains, may be submitted in writing to Cindy Kornegay, 3018 Mail Service Center, Raleigh, NC 27699-3018.

Comments may be submitted to: Cindy Kornegay, 3018 Mail Service Center, Raleigh, NC 27699-3018, Phone (919)715-2780, fax (919)733-1221 or email cindy.kornegay@ncmail.net.

Comment period ends: January 3, 2006

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact

CHAPTER 27 – MENTAL HEALTH: COMMUNITY FACILITIES AND SERVICES

SUBCHAPTER 27G - RULES FOR MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE ABUSE FACILITIES AND SERVICES

SECTION .1800 – INTENSIVE RESIDENTIAL TREATMENT FOR CHILDREN OR ADOLESCENTS

10A NCAC 27G .1801 SCOPE

(a) An intensive residential treatment facility is one that is a 24-hour residential facility that provides a structured living environment within a system of care approach for children or adolescents whose needs require more intensive treatment and supervision than would be available in a residential treatment staff secure facility.

(b) It shall not be the primary residence of an individual who is not a client of the facility.

(c) The population served shall be children or adolescents who have a principal diagnosis of mental illness, severe emotional and behavioral disorders or substance-related disorders; and may also have co-occurring disorders including developmental disabilities. These children or adolescents shall not meet criteria for acute inpatient psychiatric services.

(d) The children or adolescents served shall require the following:

- (1) removal from home to an intensive integrated treatment setting; and
- (2) treatment in a locked setting.

(e) Services shall be designed to:

- (1) assist in the development of symptom and behavior management skills;
- (2) include intensive, frequent and pre-planned crisis management;
- (3) provide containment and safety from potentially harmful or destructive behaviors;
- (4) promote involvement in regular productive activity, such as school or work; and
- (5) support the child or adolescent in gaining the skills needed for reintegration into community living.

(f) The intensive residential treatment facility shall coordinate with other individuals and agencies within the child or adolescent's system of care.

Authority G.S. 122C-26; 143B-147.

10A NCAC 27G .1802 REQUIREMENTS OF LICENSED PROFESSIONALS

(a) Each facility shall have at least one full-time a licensed professional. For purposes of this Rule, licensed professional means an individual who holds a license or provisional license

issued by the governing board regulating a human service profession in the State of North Carolina.

(b) The governing body responsible for each facility shall develop and implement written policies that specify the clinical and administrative responsibilities of its licensed professional(s). At a minimum these policies shall include:

- (1) supervision of direct care staff;
- (2) oversight of emergencies;
- (3) provision of direct clinical psychoeducational services to children, adolescents or families;
- (4) participation in treatment planning meetings; and
- (5) coordination of each child or adolescent's treatment plan.

(c) Licensed professionals shall meet the Provider Requirement and Supervision standards as set forth in the Division of Medical Assistance Clinical Policy Number 8D-2, Intensive Residential Treatment Services, including subsequent amendments and editions. A copy of Clinical Policy 8D-2 is available at no cost from the Division of Medical Assistance website at <http://www.dhhs.state.nc.us/dma/>.

Authority G.S. 122C-26; 143B-147.

10A NCAC 27G .1803 REQUIREMENTS OF QUALIFIED PROFESSIONALS

(a) Each facility shall have at least one full-time qualified professional as set forth in 10A NCAC 27G .0104(18). In addition, the qualified professional shall have two years of direct client care experience.

(b) For each facility:

- (1) a qualified professional shall perform clinical and administrative responsibilities a minimum of 40 hours each week; and
- (2) 75% shall occur when children or adolescents are awake and present in the facility.

(c) The governing body responsible for each facility shall develop and implement written policies that specify the clinical and administrative responsibilities of its qualified professional(s). At a minimum these policies shall include:

- (1) management of the day to day operations of the facility;
- (2) supervision of paraprofessionals regarding responsibilities related to the implementation of each child or adolescent's treatment plan;
- (3) participation in treatment planning meetings; and
- (4) provision of basic case management functions.

(d) The qualified professional shall meet the Provider Requirement and Supervision standards as set forth in the Division of Medical Assistance Clinical Policy Number 8D-2, Intensive Residential Treatment Services, including subsequent amendments and editions. A copy of Clinical Policy 8D-2 is available at no cost from the Division of Medical Assistance website at <http://www.dhhs.state.nc.us/dma/>.

Authority G.S. 122C-26; 143B-147.

10A NCAC 27G .1804 MINIMUM STAFFING REQUIREMENTS

(a) One direct care staff is required to be present in the facility at all times when children or adolescents are away from the facility.

(b) An additional on-call direct care staff shall be readily available by telephone or page and able to reach the facility within 30 minutes of the call or page.

(c) If children or adolescents are cared for in separate units/buildings, the minimum staffing numbers shall apply to each unit/building.

(d) The minimum number of direct care staff required when children or adolescents are present and awake is as follows:

- (1) three direct care staff shall be present for five or six children or adolescents;
- (2) four direct care staff shall be present for seven, eight or nine children or adolescents; and
- (3) five direct care staff shall be present for 10, 11 or 12 children or adolescents.

(e) During child or adolescent sleep hours three direct care staff be present of which two shall be awake and the third may be asleep.

(f) Direct care staff shall meet the Provider Requirement and Supervision standards as set forth in the Division of Medical Assistance Clinical Policy Number 8D-2, Intensive Residential Treatment Services, including subsequent amendments and editions. A copy of Clinical Policy 8D-2 is available at no cost from the Division of Medical Assistance website at <http://www.dhhs.state.nc.us/dma/>.

(g) In addition to the minimum number of direct care staff set forth in Paragraphs (a)-(e) of this Rule, more direct care staff may be required in the facility based on the child or adolescent's individual needs as specified in the treatment plan.

Authority G.S. 122C-26; 143B-147.

10A NCAC 27G .1805 OPERATIONS

(a) Each facility shall serve no more than 12 children or adolescents.

(b) Family members or other legally responsible persons shall be involved in development of plans in order to assure a smooth transition to a less restrictive setting.

(c) Educational services within the facility are arranged and designed to maintain the educational and intellectual development of the child or adolescent. Treatment staff shall coordinate with the local education agency to ensure that the child or adolescent's educational needs are met as identified in the education plan.

(d) Psychiatric consultation shall be available as needed for each child or adolescent.

(e) If an adolescent has his 18th birthday while receiving treatment in the facility, he may remain for six months or until the end of the state fiscal year, whichever is longer.

(f) Each child or adolescent shall be entitled to age-appropriate personal belongings unless such entitlement is counter-indicated in the treatment plan.

(g) Each facility shall operate 24 hours per day, seven days per week, and each day of the year.

Authority G.S. 122C-26; 143B-147.

10A NCAC 27G .1806 TRANSFER OR DISCHARGE

- (a) The purpose of this Rule is to address the transfer or discharge of a child or adolescent from the facility.
- (b) A child or adolescent shall not be discharged or transferred from a facility, except in case of emergency, without the advance written notification of the treatment team, including the legally responsible person. For purposes of this Rule, treatment team means the same as the existing child and family team or other involved persons as set forth in Paragraph (c) of this Rule.
- (c) The facility shall meet with existing child and family teams or other involved persons including the parent(s) or legal guardian, area authority or county program representative(s) and other representatives involved in the care and treatment of the child or adolescent, including local Department of Social Services, Local Education Agency and criminal justice agency, to make service planning decisions prior to the transfer or discharge of the child or adolescent from the facility.
- (d) In case of an emergency, the facility shall notify the treatment team including the legally responsible person of the transfer or discharge of the child or adolescent as soon as the emergency situation is stabilized.
- (e) In case of an emergency, notification may be by telephone. A service planning meeting as set forth in Paragraph (c) of this Rule shall be held within five business days of an emergency transfer or discharge.

Authority G.S. 122C-26; 143B-147.

TITLE 12 – DEPARTMENT OF JUSTICE

Notice is hereby given in accordance with G.S. 150B-21.2 that the Attorney General intends to adopt the rules cited as 12 NCAC 02J .0101-.0104, .0201-.0211, .0301-.0304.

Proposed Effective Date: March 1, 2006

Public Hearing:

Date: January 10, 2006

Time: 9:00 a.m.

Location: Old Education Building, Room G-22, 114 W. Edenton Street, Raleigh, NC

Reason for Proposed Action: Due to ratification of Senate Bill 527, the Campus Police Act, in July 2005, the rules governing Campus Police, which were previously combined with Company and Railroad Police, have been moved to a separate Subchapter within Title 12, Chapter 02. These new rules also reflect new requirements within the Campus Police Program.

Procedure by which a person can object to the agency on a proposed rule: The objection, reasons for the objections, and the clearly identified portion of the rule to which the objection pertains, must be submitted in writing to Vickie Huskey,

Company Police Program Administrator, Department of Justice, 114 W. Edenton Street, Raleigh, NC 27602.

Comments may be submitted to: Vickie Huskey, Company Police Program Administrator, Department of Justice, 114 W. Edenton Street, Raleigh, NC 27602, phone 919-716-6470, fax 919-716-6752, email vhuskey@ncdoj.com.

Comment period ends: January 10, 2006

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-733-2721.

Fiscal Impact

- ☐ State
- ☐ Local
- ☐ Substantive (≥\$3,000,000)
- ☒ None

CHAPTER 2 - OFFICE OF THE ATTORNEY GENERAL

SUBCHAPTER 02J- CAMPUS POLICE

SECTION .0100 - GENERAL PROVISIONS

12 NCAC 02J .0101 LOCATION

The administrative office for the commissioning of campus police officers and the certification of campus police agencies is located in the office of the Criminal Justice Standards Division. Correspondence shall be directed to:

Campus Police Administrator

Campus Police Program

9001 Mail Service Center

Raleigh, North Carolina 27699-9001

Telephone: (919) 716-6470

Authority G.S. 74G; 143A-54.

12 NCAC 02J .0102 PURPOSES

The purposes of the Attorney General's Office in granting campus police commissions are:

- (1) to allow those private institutions of higher education described in G.S. 74G-2 to apply for certification as a campus police agency;
- (2) to allow those private institutions of higher education described in G.S. 74G-2 to employ